

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CURLIN PENNICK III,

Plaintiff,

v.

JOE WILLIAMSON,

Defendant.

No. 11-CV-5971-RBL

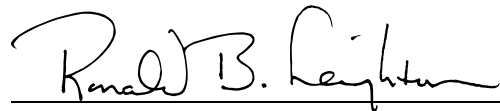
ORDER

The Court has adopted the Magistrate Judge’s Report and Recommendation (Dkt. #30), granting partial summary judgment. The Report declined to address qualified immunity because Defendant, although including qualified immunity as an affirmative defense in his Answer, failed to brief the question in his Motion for Summary Judgment (Dkt. #14). Plaintiff, however, addressed qualified immunity in his Cross Motion for Summary Judgment, and Defendant responded. (*See* Dkts. #17, 24.) The Court will thus address it here.

The Court must conclude that Defendant is entitled to qualified immunity. Qualified immunity “shields an officer from suit when she makes a decision that, even if constitutionally deficient, reasonably misapprehends the law governing the circumstances she confronted.” *Brosseau v. Haugen*, 543 U.S. 194, 198 (2004). Qualified immunity “gives ample room for mistaken judgments” and protects “all but the plainly incompetent.” *Hunter v. Bryant*, 502 U.S. 224 (1991).

1 Here, all evidence suggests that the absence of Plaintiff's name on the Passover list was
2 merely a mistake that was promptly rectified. Defendant is a food manager at Stafford Creek
3 Corrections Center, and as such, he follows the meal-lists provided to him. The Government
4 acknowledges that the Chaplain's officer mistakenly left Plaintiff off the list for two days during
5 Passover. Plaintiff was, however, provided regular meals which contained fruits and vegetables
6 that Plaintiff acknowledges were kosher. The Court therefore **GRANTS** qualified immunity and
7 dismisses this case.

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9 Dated this 25th day of January 2013.

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12 Ronald B. Leighton
13 United States District Judge
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